

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

MELVIN MILLER,

Plaintiff,

v.

**Civil Action No. 5:09cv39
(Judge Stamp)**

JOHN DELLA RATTA LAW OFFICE

Defendant.

REPORT AND RECOMMENDATION

On April 14, 2009, the *pro se* plaintiff filed a civil rights complaint against the above-named defendant. In the complaint, the plaintiff alleges that the defendant, who apparently represented him in criminal proceedings in the State of New York, has violated his responsibilities in that regard.

Because the events giving rise to this cause of action occurred in the Northern District of New York, venue is not appropriate in this Court. 28 U.S.C. § 1391(b). Accordingly, it is hereby recommended that pursuant to 28 U.S.C. §§ 1404(a) and 1406(a), this matter be **TRANSFERRED** to the United States District Court for the Northern District of New York for all further proceedings, and any motions pending at the time of transfer be carried with the case for consideration by the transferee Court.

Within ten (10) days after being served with a copy of this Report and Recommendation, the plaintiff may file with the Clerk of the Court written objections identifying the portions of the Recommendation to which objections are made, and the basis for such objections. A copy of such objections should also be submitted to the Honorable Frederick P. Stamp, Jr., United States District Court. Failure to timely file objections to the Recommendation set forth above will result in waiver of the right to appeal from a judgment of this Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); Thomas v. Arn, 474 U.S. 140 (1985); Wright v. Collins, 766 F.2d 841 (4th Cir. 1985); United States v. Schronce, 727 F.2d 91 (4th Cir. 1984), cert. denied, 467 U.S. 1208 (1984).

The Clerk is directed to send a copy of this Report and Recommendation to the *pro se* plaintiff by certified mail, return receipt requested, to his last known address as shown on the docket

DATED: 4-15-09



DAVID J. JOEL
UNITED STATES MAGISTRATE JUDGE